

28 SEP 2000



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In re Application of
MATASOV, et al.
U.S. Application No.: 09/509,377
PCT No.: PCT/LV98/00006
International Filing Date: 2 October 1998
Priority Date: 3 October 1997
For: ENDOSCOPE WITH SINGLE-USE
CARTRIDGE FOR THE INVAGINATION
OF ENDOSCOPIC TUBE

DECISION ON PETITION

UNDER 37 CFR 1.137(b)

This is a decision on applicants' "PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)" filed in the United States Patent and Trademark Office (USPTO) on 28 August 2000. As authorized, the required small entity petition fee of \$605.00 (37 CFR 1.17(m)) has been charged to applicant's Visa credit card.

BACKGROUND

On 2 October 1998, applicant filed international application PCT/LV98/00006, which claimed priority of an earlier application filed 3 October 1997. A copy of the international application was communicated to the USPTO from the International Bureau on 15 April 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 29 April 1999, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 3 April 2000.

On 27 March 2000, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*: an oath or declaration as required by 35 U.S.C. 371 (c)(4); and translation of the International Application into English as required by 35 U.S.C. 371(c)(2). The basic national fee required under 35 U.S.C. 371(c)(1) was purportedly sent in the form of a money order in Latvian currency.

On 20 June 2000, applicant was mailed a decision informing applicant that the application had gone abandoned for failure to pay the basic national fee as the fee was not paid in U.S. dollars.

On 14 July 2000, applicant was mailed a "Notification of Abandonment" (Form PCT/DO/EO/909) informing applicant that the application had gone abandoned for failure to pay the basic national fee.

On 28 August 2000, applicant sent the present petition by facsimile accompanied by a USPTO Credit Card Payment Form authorizing payment of the basic national fee, multiple dependent claims fee and 1.137(b) petition fee from applicant's Visa card.

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the, "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional." and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c) (where required).

With regard to Item (1), the proper response was payment of the basic national fee in U.S. dollars. Applicant has provided a USPTO Credit Card Payment Form authorizing payment of the basic national fee.

As to Item (2) the appropriate petition fee of \$605.00 as required by 37 CFR 1.17(m) was authorized to be taken from applicant's Visa card.

With regard to Item (3), applicants' statement that, "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

As to Item (4), the terminal disclaimer is not required since this application was filed after 08 June 1995.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

CONCLUSION

For the reasons above, the petition for revival is GRANTED.

This application will be given an international application filing date of 2 October 1998 and a date of **28 August 2000** under 35 U.S.C. 371 and 102(e).

This application is being returned to the DO/EO/US for processing in accordance with this decision.



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